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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,947	07/03/2003	Stefan Florsheimer	1351 US	5417

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EXAMINER

ROSENBERG, LAURA B

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,947

Applicant(s)

FLORSHEIMER ET AL.

Examiner

Laura B Rosenberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 13 and 18-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-12, 14-17 and 22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/14/03; 12/8/03; 4/29/04</u> | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I: figures 1, 5, 6, 7a-7d;

Species II: figures 2, 3;

Species III: figures 4a, 4b.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 12 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

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showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Lonnie Drayer on 17 February 2005 a provisional election was made with traverse to prosecute the invention of Species I, claims 1, 6-12, 14-17, and 22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 2-5, 13, and 18-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the measuring device, as it relates to Species I, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 6-12, 14-17, and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the specification does not support the embodiment of Species I, as shown in figures 1, 5, 6, and 7a-7d, which includes a measuring device for measuring the advance movement of the measuring element.

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6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 6-12, 14-17, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1 and 10, the phrase "and/or" renders the claim(s) indefinite.

Claim Objections

8. Claims 15 and 17 are objected to because of the following informalities:

"the sleeve or sheath" should be changed to --a sleeve or sheath--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 12, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Sinnhuber (6,308,983). Sinnhuber discloses:

- Airbag module (#1)
- Inflator (#15)
- Airbag (#2)
- Measuring element (#17), first end connected to interior surface of airbag (column 4, lines 65-67), second end arranged in a storage device (within framework of vehicle)
- Measuring device (including #18)
- Tensioning/deceleration device (cord brake, not shown; column 5, lines 5-7)
- Code (barcode; columns 4, 5)

11. Claims 1, 6-9, 11, 12, 14-17, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Husby et al. (2004/0119273A1).

The applied reference has a common assignee and a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Husby et al. disclose:

- Airbag module (#20)
- Inflator (including #26, 28)
- Airbag (#22)

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- Measuring element (#36), first end connected to interior surface of airbag (paragraph 0027), second end arranged in a storage device (including #40, 94, 138)
- Measuring device (including #42, 44, 106)
- Tensioning/deceleration device (including #50, 104, 122, 136)
- Code (#46)
- Storage device (including #40, 94, 138) is a “sleeve” or “sheath” defining at least one longitudinally extending chamber (including #58, 100, and chambers extending from #58, 100 through and out of cartridge)
- Measuring element (#36) arranged in “sleeve” or “sheath” in a single layer (single layer within chambers extending from #62 to #66, and from #102 to #108)
- “Sleeve” or “sheath” comprises several parts (best seen in figures 2, 3, 10) and is connected directly to airbag module housing (#24; paragraph 0027)
- Deceleration device is arranged on the storage device, is an indented region of a “sleeve” or “sheath”, is a spring-loaded bracket, or is a roughened inner surface of a “sleeve” or “sheath” (best seen in figures 2, 3, 9, 10)

12. Claims 1, 6, 7, and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Pettypiece, Jr. (6,840,539).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Pettypiece, Jr. discloses:

- Airbag module (#20)
- Inflator (including #26, 30)
- Airbag (#32)
- Measuring element (#38, 90, 104), first end connected to interior surface of airbag (at #42), second end arranged in a storage device (#36, 84, 100)
- Measuring device (including #68, 70, 94, 96, 110, 112)
- Tensioning device (friction created by cartridge; column 2, lines 30-35)
- Storage device is a "sleeve" or "sheath" (created by spool/cone #48, 54, 86, 102 and body of cartridge #52, 88, 100) defining at least one longitudinally extending chamber (gap between spool/cone and body of cartridge)
- "Sleeve" or "sheath" comprises several parts (best seen in figures 1, 3, 4) and is connected directly to airbag module housing (#24; best seen in figure 2)
- "Sleeve" or "sheath" is spiral shaped (best seen in figures 1, 3, 4)

13. Claims 1, 6, 7, 9, 11, 12, and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Husby (6,793,243).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome

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either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Husby discloses:

- Airbag module (#10)
- Inflator (including #12, 13)
- Airbag (#17)
- Measuring element (#34), first end connected to interior surface of airbag (at #40), second end arranged in a storage device (including #20, 64, 74, 92, 110)
- Measuring device (for example, including #54, 62)
- Tensioning/deceleration device (for example, including #48, 50)
- Storage device is a "sleeve" or "sheath" (including #26) defining at least one longitudinally extending chamber (between flanges #30, 32)
- "Sleeve" or "sheath" comprises several parts (best seen in figure 2) and is connected directly to airbag module housing (#11; best seen in figure 9)
- Deceleration device is arranged on the storage device, is an indented region of a "sleeve" or "sheath", is a spring-loaded bracket, or is a roughened inner surface of a "sleeve" or "sheath" (best seen in figures 2, 4, 5, 7)

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gioutsos et al. and Pettypiece, Jr. et al. each disclose an airbag module comprising an inflator, airbag, measuring element, storage device, and measuring device.

Wolanin, Jayaraman et al., Eschbach, Fischer, and Serban et al. each disclose an airbag module comprising an inflator, airbag, and tethering element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Beginning April 7, 2005, Laura B Rosenberg can be reached at the new USPTO location at (571) 272-6674, and Paul Dickson can be reached at (571) 272-6669.

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Patent Examiner
Art Unit 3616

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